



In the

RESERVE BANK OF INDIA
Foreign Exchange Department
11th floor, Central Office Building
Shahid Bhagat Singh Road
Mumbai - 400 001

Present

Meghna Singh
Assistant General Manager

Date: February 02, 2018
CA No 4577/ 2017

In the matter of

Edunetwork Pvt Ltd
No. 3 Ground Floor, Kedia Arcade No. 92
Infantry Road, Bangalore 560001

(Applicant)

In exercise of the powers conferred under section 15 (1) of Foreign Exchange Management Act, 1999 and the Regulations/Rules/Notifications/Orders made there under, I pass the following

Order

The applicant has filed the application dated November 14, 2017 (received in the Reserve Bank on November 22, 2017), for compounding of contraventions of the provisions of the Foreign Exchange Management Act, 1999 (the FEMA) and the regulations issued there under. The contravention sought to be compounded are receipt of consideration towards investment by an Indian company from an NRI through a resident account. The above amounts to the contravention of Para 3 of Schedule 4 and of Regulation 4, of Foreign Exchange Management (Transfer or Issue of Security By a Person Resident Outside India) Regulations, 2000 notified vide Notification No. FEMA 20/2000-



RB dated May 3, 2000 as amended from time to time (hereinafter referred to as FEMA 20).

2. The relevant facts are as under:

(a) The applicant received the consideration amount of Rs.56,850 on August 03, 2015 from Shri Gaurav Bamania an NRI, for acquisition of its 3,790 shares, through the NRI's resident account. Receipt of consideration amount towards investment in an Indian company by an NRI through a resident account and not by way of inward remittance through normal banking channel from abroad or out of funds held in NRE/FCNR/NRO account maintained with a bank in India, is a contravention of the provisions of Para 3 of Schedule 4 of FEMA 20, and of Regulation 4 of FEMA 20 in terms of which save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India.

(b) The applicant was advised vide Reserve Bank letter dated October 26, 2017 (through the Authorised dealer HDFC Bank Ltd.) to apply for regularization of the contraventions subject to compounding. The applicant applied for regularization vide compounding application dated November 14, 2017. The contraventions have since been examined and regularized by the Reserve Bank.

3. In terms of Para 3 of Schedule 4 of FEMA 20 "The consideration for investment under this Schedule shall be paid by way of inward remittance through normal banking channel from abroad or out of funds held in NRE/FCNR/NRO account maintained with a bank in India."

Further, in terms of Regulation 4 of FEMA 20 "Save as otherwise provided in the Act or Rules or Regulations made thereunder, an Indian entity shall not issue any security to a person resident outside India or shall not record in its books any transfer of security from or to such person:

Provided that the Reserve Bank may, on an application made to it and for sufficient reasons, permit an entity to issue any security to a person resident outside India or to record in its books transfer of security from or to such person, subject to such conditions as may be considered necessary."



4. The applicant was given an opportunity for personal hearing vide letter No. FED.CO.CEFA No./5900/15.20.67/2017-18 dated January 10, 2018 for further submission in person and/or producing documents, if any, in support of the application. The applicant sought to be exempted from the personal hearing with the Compounding Authority vide his e-mail dated January 12, 2018. The application is, therefore, being considered on the basis of the averments made in the compounding application and the documents submitted therein.

5. I have given my careful consideration to the documents on record. It was observed that the applicant has contravened the provisions of Para 3 of Schedule 4 and of Regulation 4, of FEMA 20. The amount and period of contravention is as follows:

Amount of contravention– Rs. 56,850/- and period of contravention – 2 years 4 months approximately.

6. In terms of section 13 of the FEMA, any person contravening any provision of the Act shall be liable to a penalty up to thrice the sum involved in such contravention upon adjudication. After considering the submissions made by the applicant and the entire facts and circumstances of the case I am persuaded to take a lenient view on the amount for which the contravention is to be compounded and it stands to reason that payment of an amount of Rs.26, 530/- (Rupees twenty six thousand five hundred thirty only) will meet the ends of justice in the circumstances of this case.

7. Accordingly, I compound, in terms of the Foreign Exchange (Compounding Proceedings) Rules, 2000 the admitted contravention committed by the applicant namely, Para 3 of Schedule 4 and of Regulation 4, of FEMA 20 on payment of a sum of Rs.26, 530/- (Rupees twenty six thousand five hundred thirty only) which shall be deposited by the applicant with the Reserve Bank of India, Foreign Exchange Department, 5th Floor, Amar Building, Fort, Mumbai 400001 by a demand draft drawn in favour of the "Reserve Bank of India" and payable at 'Mumbai' within a period of 15 days from the date of this order. In case of failure to deposit the compounded



amount within the above mentioned period, Rule 10 of the Foreign Exchange (Compounding Proceedings) Rules, 2000 dated May 3, 2000 shall apply.

The application is disposed accordingly.

Dated this the second day of February, 2018

Sd/-

(Meghna Singh)
Assistant General Manager